

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN ASSEMBLY MAY 18, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2717**

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**Introduced by Assembly Member Walters**

February 24, 2006

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An act to amend Sections 17171, 17173, 17180, 17183, 17183.5, 17184, 17185, 17193, 17193.5, 17194, 17195, 17199.1, and 17199.4 of, ~~and to add Section 17199.15 to,~~ the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 2717, as amended, Walters. Charter school finance.

The California School Finance Authority Act establishes the California School Finance Authority for the purpose of assisting school districts and community college districts by providing financing for working capital, as defined, and capital improvements.

This bill would, in addition, provide that charter schools are eligible for assistance under the act, and would revise various definitions and procedures contained in the act accordingly. ~~The bill also would authorize a charter school to borrow money through the issuance of notes, as specified, and to pledge specified revenues, moneys, and other rights to the repayment of the notes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.



*The people of the State of California do enact as follows:*

SECTION 1. Section 17171 of the Education Code is amended to read:

17171. The Legislature hereby finds and declares that it is in the interest of the state and its people for the state to do all of the following:

(a) Reconstruct, remodel, or replace existing school buildings that are educationally inadequate or that do not meet current structural safety requirements.

(b) Acquire new schoolsites and buildings to be made available to school districts, charter schools, and community college districts for the pupils of the public education system, which is a matter of general concern inasmuch as the education of the state's children is an obligation and function of the state.

(c) Assist school districts and community college districts by providing access to financing for working capital and capital improvements.

SEC. 2. Section 17173 of the Education Code is amended to read:

17173. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Agent" means a county or city board of education or superintendent of schools acting with the board's consent, on behalf of one or more school districts for any purpose of this chapter, the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with the Board of Governors' consent, on behalf of one or more community college districts for any purpose of this chapter, and the school district, county office of education, or other chartering entity acting with the consent of, and on behalf of, one or more charter schools for any purpose of this chapter.

(c) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.



1 (d) “Bonds” or “revenue bonds” means bonds, notes, lease  
2 obligations, certificates of participation, commercial paper, and  
3 any other evidences of indebtedness.

4 (e) “Cost,” as applied to all or part of a project financed or  
5 refinanced pursuant to this chapter, means and includes all or any  
6 part of the cost of any of the following:

7 (1) Construction.

8 (2) Acquisition or improvement of all lands, structures, real or  
9 personal property, rights, rights-of-way, franchises, easements,  
10 and interests acquired or used for a project.

11 (3) Demolition or removal of any buildings or structures on  
12 land acquired for a project, including the acquisition of any lands  
13 to which the buildings or structures may be moved.

14 (4) All machinery and equipment.

15 (5) Financing or refinancing charges, including, but not  
16 limited to, credit enhancement costs, and prepayment penalties.

17 (6) Interest prior to, during, and for a period following, the  
18 completion of—~~such~~ any construction or improvement—as  
19 determined by the authority.

20 (7) Provisions for working capital.

21 (8) Reserves for principal and interest, and for extensions,  
22 enlargements, additions, replacements, renovations, and  
23 improvements.

24 (9) Engineering, architectural, financial, and legal services,  
25 plans, specifications, studies, surveys, estimates, administrative  
26 expenses, and other expenses necessary or incident to the  
27 construction, acquisition, or improvement of any project or any  
28 financing or refinancing under this chapter.

29 (f) “Educational facility” means any property, facility,  
30 structure, equipment, or furnishings used or operated in  
31 conjunction with one or more public schools, including charter  
32 schools, or community colleges, including, but not limited to, all  
33 of the following:

34 (1) Classrooms.

35 (2) Auditoriums.

36 (3) Student centers.

37 (4) Administrative offices.

38 (5) Sports facilities.

39 (6) Maintenance, storage, or utility facilities.



(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(g) “Participating party” means a school district, charter school, county office of education, or community college district that undertakes, itself or through an agent, the financing or refinancing of a project or of working capital pursuant to this chapter. “Participating party” shall also be deemed to refer to the agent to the extent the agent is acting on behalf of the school district, charter school, county office of education, or community college district for any purpose of this chapter.

(h) “Project” means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. “Project” may include any combination of the foregoing undertaken jointly by any participating district with one or more other participating parties.

(i) “Working capital” means funds to be used by, or on behalf of, a participating party to pay maintenance or operating expenses, or any other costs that would be treated as an expense item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:

- (1) Reserves for maintenance or operating expenses.
- (2) Interest for a period not to exceed two years on any loan for working capital made pursuant to this chapter.
- (3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.
- (4) Payments made by a participating party for the rent or lease of an educational facility.

(j) “Certificate of participation” means an undivided interest in one or more bonds, leases, loans, installment sales, or other agreements of a participating party or parties.

(k) “Charter school” means a school established pursuant to Part 26.8 (commencing with Section 47600).

SEC. 3. Section 17180 of the Education Code is amended to read:

17180. The authority is hereby authorized to do all of the following:



1 (a) Adopt bylaws for the regulation of its affairs and the  
2 conduct of its business.

3 (b) Adopt an official seal.

4 (c) Sue and be sued in its own name.

5 (d) Receive and accept gifts, grants, or donations of money for  
6 any of the purposes of this chapter from any of the following:

7 (1) A federal agency.

8 (2) A state agency.

9 (3) A municipality, county, or other political subdivision of  
10 the state.

11 (4) An individual, association, or corporation.

12 (e) Engage the services of private consultants to render  
13 professional and technical assistance and advice in carrying out  
14 the purposes of this chapter.

15 (f) (1) Determine the location and character of any project to  
16 be financed or refinanced under this chapter, and acquire,  
17 construct, enlarge, remodel, renovate, alter, improve, furnish,  
18 equip, own, maintain, manage, repair, operate, lease as lessee or  
19 lessor, or regulate the same.

20 (2) Designate a participating party as its agent, with authority  
21 to enter into contracts, for any of the purposes specified in  
22 paragraph (1).

23 (3) Enter into contracts for any of the purposes specified in  
24 paragraph (1).

25 (4) Enter into contracts for the management and operation of a  
26 project owned by the authority.

27 (g) Acquire, directly or by and through a participating party as  
28 its agent, by purchase solely from funds provided pursuant to this  
29 chapter, or by gift or devise, and sell, by installment or otherwise,  
30 property, rights, rights-of-way, franchises, easements, and other  
31 interests in lands, including, but not limited to, lands lying under  
32 water, and riparian rights, located within the state that the  
33 authority deems necessary or convenient for the acquisition,  
34 construction, financing, or operation of a project. The authority  
35 may do so upon the terms, and at the prices, it considers  
36 reasonable and upon which it can agree with the owner, and may  
37 take the title to the interest in the name of the authority or in the  
38 name of a participating party as its agent.

39 (h) Receive and accept from any source loans, contributions,  
40 or grants for, or in aid of, the construction, financing, or



1 refinancing of all or part of a project, in the form of money,  
2 property, labor, or other things of value.

3 (i) Pursuant to an agreement between the authority and the  
4 participating party, make, directly or through a lending  
5 institution, secured or unsecured loans to, or purchase secured or  
6 unsecured loans from, or purchase all or part of any rights to or  
7 possibilities regarding the state share of funding for school  
8 facilities approved by the State Allocation Board pursuant to  
9 Chapter 12.5 (commencing with Section 17070.10). The  
10 purchase of all or part of any rights to, or possibilities regarding,  
11 the state contribution for funding for school facilities approved  
12 by the State Allocation Board shall be limited to amounts  
13 approved and funded or amounts approved but not yet funded  
14 from proceeds of state bonds already authorized by the electors  
15 but not yet issued. Loans or purchases completed pursuant to this  
16 section may be used to finance or refinance a project or provide  
17 working capital. A loan to finance or refinance a project shall not  
18 exceed the total cost of the project, as determined by the  
19 participating party and approved by the authority.

20 (j) Upon the terms and conditions the authority deems proper,  
21 lease a project being financed or refinanced pursuant to this  
22 chapter to a participating party, and charge and collect rent  
23 therefor. The authority may terminate a lease pursuant to this  
24 subdivision upon the lessee's failure to comply with any of its  
25 obligations under the lease. The lease may include any of the  
26 following provisions:

27 (1) That the lessee shall have the option to renew the term of  
28 the lease for the period or periods, and at the rent, determined by  
29 the authority, or to purchase any or all of the project.

30 (2) That upon payment by the participating party of all of the  
31 indebtedness incurred by the authority for the financing of the  
32 project or for the refinancing of the participating party's  
33 outstanding indebtedness, the authority may convey any or all of  
34 the project to the lessee or lessees, with or without further  
35 consideration.

36 (k) Charge and equitably apportion among participating  
37 parties its administrative costs and expenses incurred pursuant to  
38 this chapter.

39 (l) (1) Obtain, or aid in obtaining, from any state or federal  
40 agency or any private company, any insurance, guarantee, letter,



1 or line of credit regarding, or of, or for, the payment or  
2 repayment of all or part of the interest, principal, or both, on any  
3 loan, lease, or obligation, or any instrument evidencing or  
4 securing the same, made or entered into pursuant to this chapter,  
5 or on any bonds issued pursuant to this chapter.

6 (2) Notwithstanding any other provision of this chapter, enter  
7 into any agreement, contract, or any other instrument regarding  
8 any insurance, guarantee, letter, or line of credit specified in  
9 paragraph (1), and accept payment in the manner and form  
10 provided therein in the event of default by a participating party.

11 (3) Assign any insurance, guarantee, letter, or line of credit  
12 specified in paragraph (1) as security for bonds issued by the  
13 authority.

14 (m) Enter into any agreements or contracts, including, but not  
15 limited to, agreements for liquidity or credit enhancement,  
16 execute any instruments, and any other act or thing necessary,  
17 convenient, or desirable for the purposes of the authority or to  
18 carry out any express power granted the authority pursuant to this  
19 chapter.

20 (n) At the discretion of the authority, invest any moneys held  
21 in reserve or in sinking funds, or any moneys not required for  
22 immediate use or disbursement, in obligations authorized by the  
23 resolution authorizing the bonds secured by the investment, or by  
24 law governing the investment of trust funds in the custody of the  
25 Treasurer.

26 (o) Adopt guidelines for grants, bonds, and other evidences of  
27 indebtedness.

28 SEC. 4. Section 17183 of the Education Code is amended to  
29 read:

30 17183. (a) From time to time, the authority may, by  
31 resolution, issue its revenue bonds in order to provide funds for  
32 any of the purposes of this chapter. Bonds may be issued to  
33 finance any of the following:

34 (1) A single project or financing of working capital for a  
35 single participating party.

36 (2) A series of projects or financings of working capital for a  
37 single participating party.

38 (3) A single project or financing of working capital for several  
39 participating parties.



1 (4) Several projects or financing of working capital for several  
2 participating parties.

3 (5) A joint venture school facilities construction project  
4 undertaken pursuant to Article 5 (commencing with Section  
5 17060) of Chapter 12.

6 (b) Except as otherwise expressly provided by the authority,  
7 all revenue bonds shall be payable from any available revenues  
8 or moneys of the authority not otherwise pledged, subject only to  
9 any agreements with holders of particular bonds or notes  
10 pledging any particular revenue or moneys. Notwithstanding that  
11 revenue bonds issued pursuant to this section may be payable  
12 from a special fund, the revenue bonds shall be, and shall be  
13 deemed to be for all purposes, negotiable instruments, subject  
14 only to the provisions of the revenue bonds for registration.

15 (c) The revenue bonds of the authority may be issued as serial  
16 bonds, term bonds, or the authority, in its discretion, may issue  
17 bonds of both types. The issuance shall be in accordance with the  
18 indenture, trust agreement, or resolution relating to the revenue  
19 bonds, which shall provide all of the following:

20 (1) The date or dates of the bonds.

21 (2) The date or dates upon which the bonds will mature, not to  
22 exceed 40 years from their respective dates.

23 (3) The interest rate or rates, or methods of determining the  
24 interest rate or rates, of the bonds.

25 (4) When the bonds are payable.

26 (5) The denominations of the bonds.

27 (6) The form of the bonds, which shall be either bearer or  
28 registered.

29 (7) The registration privileges of the bonds.

30 (8) The manner in which the bonds are to be executed.

31 (9) The place or places at which the bonds shall be payable in  
32 lawful money of the United States of America.

33 (10) The terms of redemption of the bonds.

34 (d) After giving due consideration to the recommendations of  
35 the participating party or parties, the revenue bonds of the  
36 authority shall be sold by the Treasurer at either a public or  
37 private sale at a price or prices, and upon the terms and  
38 conditions prescribed by the authority. The revenue bonds of the  
39 authority may be sold at, above, or below the par value of the  
40 bonds.



1 (e) Pending the preparation of the definitive bonds, the  
2 authority may issue interim receipts or certificates or temporary  
3 bonds that shall be exchanged for the definitive bonds.

4 (f) Any resolution authorizing the issuance of any bonds of the  
5 authority, or any issue of revenue bonds of the authority, may  
6 include any of the following provisions:

7 (1) Provisions pledging all or any part of the proceeds of the  
8 bonds or revenue of a project or loan.

9 (2) Provisions concerning the replacement of mutilated,  
10 destroyed, stolen, or lost bonds.

11 (3) Provisions specifying insurance to be maintained on the  
12 project and the authorized uses of the proceeds of the insurance.

13 (4) Covenants against the mortgaging or otherwise  
14 encumbering, selling, leasing, pledging, placing a charge upon,  
15 or otherwise disposing of the project prior to the payment of the  
16 bonds issued to finance the project.

17 (5) Provisions specifying the events of default, terms upon  
18 which the bonds may be declared due before maturity, and the  
19 terms upon which the declaration and its consequences may be  
20 waived.

21 (6) The rights, liabilities, powers, and duties arising upon the  
22 breach of any covenants, conditions, or obligations.

23 (7) Vesting of the right to enforce covenants in a trustee.

24 (8) The terms upon which all or any percentage of the  
25 bondholders may enforce covenants or duties.

26 (9) Procedures for amending the terms of the resolution, with  
27 or without the consent of the holders of a specified number of  
28 bonds.

29 (10) Provision for any other acts or things deemed necessary,  
30 convenient, or desirable by the authority to secure the bonds or  
31 improve their marketability.

32 (g) The validity of the authorization and issuance of any bond  
33 issue shall not be affected by proceedings for the acquisition,  
34 construction, or improvement of any project, or by contracts  
35 relating to those proceedings. Any resolution authorizing the  
36 issuance of any bonds of the authority may provide authorization  
37 for the bonds to bear a statement certifying that they are issued  
38 pursuant to this chapter. Bonds bearing that statement shall be  
39 conclusively deemed valid and issued in conformity with this  
40 chapter. Reference on the face of the bonds to the resolution by



1 its date of adoption shall incorporate the provisions of the  
2 resolution and of this chapter into the terms of the bonds.

3 (h) Members of the authority, or any person executing the  
4 revenue bonds of the authority, shall not incur personal liability  
5 on the bonds, nor shall these persons incur personal liability or  
6 accountability by reason of the issuance of the revenue bonds of  
7 the authority.

8 (i) The authority is authorized, out of any funds available for  
9 that purpose, to purchase revenue bonds of the authority. The  
10 authority may hold, pledge, cancel, or resell any bonds purchased  
11 under the authority of this subdivision, subject to, and in  
12 accordance with, agreements with bondholders.

13 (j) The financing or refinancing of projects or working capital  
14 may be provided pursuant to this chapter by means other than  
15 revenue bonds, at the discretion of the authority, including  
16 financing or refinancing through certificates of participation, or  
17 other interests, in bonds, loans, leases, installment sales, or other  
18 agreements of the participating party or parties. In this  
19 connection, the authority may do all things and execute and  
20 deliver all documents and instruments as may be necessary or  
21 desirable with regard to issuance of the certificates of  
22 participation or other means of financing or refinancing.

23 (k) The authority may by resolution issue its revenue bonds in  
24 the form of commercial paper.

25 SEC. 5. Section 17183.5 of the Education Code is amended to  
26 read:

27 17183.5. In enacting this chapter, it is the intent of the  
28 Legislature to provide financing only for projects demonstrated  
29 by the participating party to be financially feasible. In  
30 demonstrating financial feasibility, the participating party may  
31 take into account all of its funds, and may base future projections  
32 upon historical experience or reasonable expectations, or a  
33 combination thereof. Nothing in this section shall be construed to  
34 imply that any project is required to produce revenue in order to  
35 be financed under this chapter.

36 SEC. 6. Section 17184 of the Education Code is amended to  
37 read:

38 17184. (a) In the discretion of the authority, any revenue  
39 bonds of the authority issued under this chapter may be secured  
40 by a trust agreement, or by indenture by and between the



1 authority and a corporate trustee or trustees, including the  
2 Treasurer or any trust company or bank having the powers of a  
3 trust company within or outside the state.

4 (b) Any trust agreement, indenture, or any resolution  
5 providing for the issuance of bonds of the authority, may pledge  
6 or assign the proceeds of the bonds, and the revenues to be  
7 received by, a participating party or parties.

8 (c) Any trust agreement, indenture, or resolution providing for  
9 the issuance of revenue bonds of the authority may include any  
10 provisions for the protection of, and the enforcement of the rights  
11 and remedies of, bondholders as may be reasonable and proper  
12 and not in violation of any law, including provisions included in  
13 any resolution or resolutions of the authority provided under  
14 subdivision (a) or (b).

15 (d) Any trust agreement or indenture may prescribe the rights  
16 and remedies of the bondholders, and of the trustee or trustees,  
17 and may restrict the individual right of action of the bondholders.

18 (e) Any trust agreement, indenture, or resolution may include  
19 any other provisions deemed by the authority to be reasonable  
20 and proper for the security of the bondholders.

21 (f) Notwithstanding any other provision of law, the Treasurer  
22 shall not be deemed to have a conflict of interest by reason of his  
23 or her capacity as trustee pursuant to this chapter.

24 SEC. 7. Section 17185 of the Education Code is amended to  
25 read:

26 17185. (a) Notwithstanding any other provision of law,  
27 revenue bonds issued under this chapter are not and shall not be  
28 deemed to constitute a debt or liability of the state, or any  
29 political subdivision thereof, and are not and shall not be deemed  
30 to be a pledge of the faith and credit of the state, or any political  
31 subdivision thereof, other than the authority. Revenue bonds of  
32 the authority shall be payable solely from funds provided under  
33 this chapter.

34 (b) Each revenue bond of the authority shall include a  
35 statement on the face of the bond that neither the State of  
36 California nor the authority is obligated to pay the principal or  
37 interest thereon, except from revenues of the authority, and shall  
38 also include a statement that neither the faith or credit, nor the  
39 taxing power of the State of California, or any political



1 subdivision, is pledged to the payment of the principal or interest  
2 of the bonds.

3 (c) The issuance of revenue bonds under this chapter shall not  
4 directly, indirectly, or contingently obligate the state, or any  
5 political subdivision thereof, to levy or pledge any form of  
6 taxation, or make any appropriation for their payment.

7 SEC. 8. Section 17193 of the Education Code is amended to  
8 read:

9 17193. (a) The authority shall fix, revise, charge, and collect  
10 rents for the use of each project owned by the authority, and may  
11 contract with any person, partnership, association, corporation, or  
12 other body, whether public or private, for that purpose. Any lease  
13 entered into by the authority with a participating party, and each  
14 agreement, note, or other instrument evidencing the obligations  
15 of a participating party to the authority, shall provide that the  
16 rents or principal, interest, and other charges payable by the  
17 participating party shall be sufficient to provide for all of the  
18 following:

19 (1) To pay the principal, sinking fund payments, if any,  
20 premiums, if any, and the interest on outstanding bonds of the  
21 authority issued in respect of the project when due and payable.

22 (2) To create and maintain reserves that may, but need not  
23 necessarily be required or provided for, in the resolution relating  
24 to the revenue bonds of the authority.

25 (3) To pay its share of the administrative costs and expenses of  
26 the authority.

27 (b) The authority shall pledge the revenues derived and to be  
28 derived from a project or from a participating party for the  
29 purposes specified in paragraphs (1), (2), and (3) of subdivision  
30 (a). The authority may issue additional revenue bonds that may  
31 be ranked on a parity with other bonds relating to the project to  
32 the extent, and under the terms and conditions provided, in the  
33 bond resolution.

34 (c) The authority and a participating party may include in any  
35 lease or agreement between them or with a credit provider any  
36 terms and conditions relating to insurance, liquidity, or credit  
37 enhancement of the bonds, or any other lawful terms and  
38 conditions the authority deems necessary or desirable to facilitate  
39 the purposes of this chapter.



1 SEC. 9. Section 17193.5 of the Education Code is amended to  
2 read:

3 17193.5. (a) For purposes of this section, “public credit  
4 provider” means any financial institution or combination of  
5 financial institutions, that consists either solely, or has as a  
6 member or participant, a public retirement system.  
7 Notwithstanding any other provision of law, a public credit  
8 provider may, in connection with providing credit enhancement  
9 for bonds, notes, certificates of participation, or other evidences  
10 of indebtedness of a participating party, require the participating  
11 party to agree to the following conditions:

12 (1) If a participating party adopts a resolution by a majority  
13 vote of its board to participate under this section, it shall provide  
14 notice to the Controller of that election. The notice shall include  
15 a schedule for the repayment of principal and interest on the  
16 bonds, notes, certificates of participation, or other evidence of  
17 indebtedness and identify the public credit provider that provided  
18 credit enhancement. The notice shall be provided not later than  
19 the date of issuance of the bonds.

20 (2) If, for any reason a public credit provider is required to  
21 make principal or interest payments or both pursuant to a credit  
22 enhancement agreement, the public credit provider shall  
23 immediately notify the Controller of that fact and of the amount  
24 paid out by the public credit provider.

25 (3) Upon receipt of the notice required by paragraph (2), the  
26 Controller shall make an apportionment to the public credit  
27 provider in the amount of the payments made by the public credit  
28 provider for the purpose of reimbursing the public credit provider  
29 for its expenditures made pursuant to the credit enhancement  
30 agreement. The Controller shall make that apportionment only  
31 from moneys designated for apportionments to a school district  
32 pursuant to Section 42238 or to a county office of education  
33 pursuant to Section 2558 or to the community college district  
34 pursuant to Section 84750, or in the case of a charter school,  
35 pursuant to Section 47633.

36 (b) The amount apportioned for a participating party pursuant  
37 to this section shall be deemed to be an allocation to the  
38 participating party for purposes of subdivision (b) or Section 8 of  
39 Article XVI of the California Constitution. For purposes of  
40 computing revenue limits or revenue levels pursuant to Section



1 42338 for any school district or pursuant to Section 2558 for any  
2 county office of education or pursuant to Section 84750 for any  
3 community college district, the revenue limit or revenue level for  
4 any fiscal year in which funds are apportioned for the district or  
5 for the county office of education pursuant to this section shall  
6 include any amounts apportioned by the Controller pursuant to  
7 paragraph (3) of subdivision (a). For the purposes of computing  
8 the general-purpose entitlement of a charter school pursuant to  
9 Section 47633, that entitlement shall include any amounts  
10 apportioned by the Controller pursuant to paragraph (3) of  
11 subdivision (a). The participating party and its creditors do not  
12 have a claim to funds apportioned or anticipated to be  
13 apportioned to the trustee by the Controller pursuant to paragraph  
14 (3) of subdivision (a).

15 SEC. 10. Section 17194 of the Education Code is amended to  
16 read:

17 17194. The authority may authorize any participating party to  
18 act as its agent in the performance of acts specifically approved  
19 by the authority, and all acts required under Article 3  
20 (commencing with Section 17280) of Chapter 3 of Part 10.5. The  
21 authorizations may include, but are not necessarily limited to, all  
22 of the following:

- 23 (a) The selection of school or college sites.
- 24 (b) The securing of appraisals.
- 25 (c) Contracts for architectural services.
- 26 (d) The advertisement for construction bids and the entry into  
27 contracts for construction.
- 28 (e) The purchase of furniture and equipment.

29 SEC. 11. Section 17195 of the Education Code is amended to  
30 read:

31 17195. Whenever the principal and interest on bonds issued  
32 by the authority to finance the cost of a project or working  
33 capital, or to refinance the outstanding indebtedness of one or  
34 more participating parties, including any refunding bonds issued  
35 to refund and refinance those bonds, have been fully paid or  
36 retired, or whenever adequate provision has been made to fully  
37 pay and retire the bonds, and all other conditions of the  
38 resolution, lease, trust indenture and any security interest, or any  
39 other instrument or instruments authorizing and securing the  
40 bonds have been satisfied and the lien of security interest has



1 been released in accordance with those provisions, the authority  
2 shall promptly provide for and execute any releases, release  
3 deeds, reassignments, deeds, and conveyances as are necessary  
4 and required to convey or release its rights, title, and interest in  
5 the project financed, to the participating parties.

6 SEC. 12. Section 17199.1 of the Education Code is amended  
7 to read:

8 17199.1. (a) Any participating party, exclusively for the  
9 purpose of securing financing or refinancing of projects or  
10 working capital pursuant to this chapter through the issuance, by  
11 the authority, of revenue bonds, certificates of participation, or  
12 other means, and notwithstanding any other provision of law,  
13 may: (1) sell to the authority all or part of any rights to or  
14 possibilities regarding the state's share of funding for school  
15 facilities approved by the State Allocation Board pursuant to  
16 Chapter 12.5 (commencing with Sec. 17070.10) including  
17 amounts apportioned and funded and amounts approved but not  
18 yet funded by the State Allocation Board from proceeds of state  
19 bonds already authorized by the electors but not yet issued; (2)  
20 issue bonds to the authority; or (3) borrow money or purchase or  
21 lease educational facilities from the authority, and in connection  
22 therewith, sell or lease property to the authority, in each case at  
23 any interest rate or rates, rental provisions, with any maturity  
24 date or dates or term, and with any other transfer, assignment,  
25 payment, security, default, remedy, and other terms or provisions  
26 as may be specified in the sale of rights agreement or the bonds  
27 of the participating party or a loan, loan purchase, installment  
28 sale, lease, or other agreement between the authority and the  
29 participating party, subject to the following conditions:

30 (A) The sum of the amount borrowed to finance working  
31 capital and the interest payable thereon at the initial interest rate  
32 if interest is variable, shall not exceed 85 percent of the estimated  
33 amount of uncollected taxes, income, revenue, cash receipts, and  
34 other funds received by the participating party, which will be  
35 available in any fiscal year for the repayment of the loan and the  
36 interest thereon. For purposes of this paragraph, "revenue"  
37 includes, but is not limited to, federal and state funds received by  
38 the participating party.

39 (B) In computing the maximum amount that may be borrowed  
40 in any fiscal year pursuant to subparagraph (A), the participating



1 party may exclude the amount of any principal or interest which  
2 is secured by a pledge of the amount in any inactive or term  
3 deposit of the participating party which has a term scheduled to  
4 terminate during that fiscal year.

5 (C) A participating party that borrows money to finance  
6 working capital pursuant to this subdivision shall be required to  
7 repay and discharge the loan, including interest, within 15  
8 months of the loan date.

9 (D) In enacting this chapter, it is the intent of the Legislature  
10 to provide financing of working capital needed to cover  
11 temporary or cash-flow deficits and needs for working capital  
12 and not long-term budget deficits or shortfalls in funding. The  
13 participating party must demonstrate to the satisfaction of the  
14 authority that, during the term of any working capital loan  
15 received pursuant to this chapter, the participating party will  
16 receive or otherwise have (without additional borrowing)  
17 sufficient funds to repay and discharge the loan. The  
18 participating party may take into account all funds received by  
19 the participating party and may base future projections upon  
20 historical experience or reasonable expectations, or a  
21 combination thereof.

22 (b) Notwithstanding Sections 700, 703, and 1045 of the Civil  
23 Code, the rights and possibilities that a participating party may  
24 have or obtain in the future to an approved state contribution to  
25 funding for school facilities pursuant to Chapter 12.5  
26 (commencing with Sec. 17070.10) that remains unfunded  
27 pending the issuance of state bonds already authorized by the  
28 electors shall constitute property for all purposes and may be  
29 transferred as provided in subdivision (a). In the case of any  
30 transfer or assignment of rights or possibilities relating to funds  
31 for which bonds have been approved by the voters but are not yet  
32 available, the transfer or assignment shall be approved by  
33 resolution of the State Allocation Board prior to becoming  
34 effective.

35 (c) Any participating party may enter into any agreement for  
36 liquidity or credit enhancement, with any reimbursement,  
37 payment, interest, security, default, remedy, and other terms it  
38 may deem necessary or appropriate in connection with the  
39 issuance of bonds, the borrowing of money or the lease or  
40 purchase of educational facilities, whichever is applicable. Any



1 participating party or parties may also do all things and execute  
2 all documents as may be necessary or desirable in connection  
3 with the issuance of certificates of participation, or other  
4 interests, in any bond, loan, note, installment sale, lease, or other  
5 agreement of the participating party.

6 (d) A school district may by resolution authorize any county or  
7 city board of education or superintendent of schools, a  
8 community college district may by resolution authorize the  
9 Board of Governors of the California Community Colleges or the  
10 Chancellor of the California Community Colleges, and a charter  
11 school may by resolution authorize its chartering entity or  
12 educational management organization, to act as its agent in the  
13 performance of any of the matters permitted by this section or  
14 any other provision of this chapter. Notwithstanding any other  
15 provision of law, the agent shall have the powers granted by the  
16 resolution for purposes of this chapter. The resolution shall be  
17 deemed to bind the school district, charter school, or community  
18 college district, as the case may be, to any contract, agreement,  
19 instrument, or other document executed by the agent on behalf of  
20 the school district, charter school, or community college district,  
21 and all duties, obligations, or responsibilities contained therein  
22 on the part of the school district, charter school, or community  
23 college district, to the same extent as if duly authorized,  
24 executed, and delivered by the school district, charter school, or  
25 community college district.

26 (e) This section shall be deemed to provide a complete,  
27 additional, and alternative method for accomplishing the acts  
28 authorized by this section, and the sale or transfer of any rights to  
29 or possibilities regarding the state share of funding for school  
30 facilities approved by the State Allocation Board including  
31 amounts apportioned and funded and amounts approved but not  
32 yet funded from proceeds of state bonds already authorized by  
33 the electors but not yet issued, issuance of bonds to, borrowing of  
34 money from, or sale or purchase or lease of educational facilities  
35 from or to, the authority. Any agreement entered into in  
36 connection with the transfer of any rights to or possibilities  
37 regarding the state contribution for funding for school facilities  
38 pursuant to Chapter 12.5 (commencing with Section 17070.10),  
39 including amounts apportioned and funded and amounts  
40 approved but not yet funded by the State Allocation Board from



1 proceeds of state bonds already authorized by the electors but not  
2 yet issued, or the issuance of bonds, the borrowing of money or  
3 the sale, purchase, or lease of educational facilities, including,  
4 without limitation, any agreement for liquidity or credit  
5 enhancement under this section, need not comply with the  
6 requirements of any other law applicable to issuance of bonds,  
7 borrowing, selling, purchasing, leasing, pledge, encumbrance, or  
8 credit, as the case may be, by a school district, charter school, or  
9 community college district, or by a county or city board of  
10 education or superintendent of schools, or the Board of  
11 Governors of the California Community Colleges or Chancellor  
12 of the California Community Colleges, or the governing board of  
13 a charter school, chartering entity, or educational management  
14 organization.

15 ~~SEC. 13. Section 17199.15 is added to the Education Code, to~~  
16 ~~read:~~

17 ~~17199.15. (a) On or after the first day of any fiscal year, a~~  
18 ~~charter school that elects to receive funding directly pursuant to~~  
19 ~~Section 47651 may borrow money through the issuance of notes~~  
20 ~~to the authority or to any other person, corporation, municipal or~~  
21 ~~public corporation pursuant to this chapter, in order to finance~~  
22 ~~any purpose for which the charter school is authorized to use and~~  
23 ~~expend moneys, including, but not limited to, current expenses,~~  
24 ~~capital expenditures, investment or reinvestment, and the~~  
25 ~~discharge of any obligation or indebtedness of the charter school.~~  
26 ~~The notes shall be issued as provided in this chapter and, if not~~  
27 ~~otherwise provided for in this chapter, in the form, and on the~~  
28 ~~terms of payment and redemption, and any other terms, contained~~  
29 ~~in the charter school resolution authorizing the issuance of notes.~~

30 ~~Notwithstanding any other provision of this section, a charter~~  
31 ~~school that does not elect to receive its funding directly pursuant~~  
32 ~~to Section 47651 is not authorized to issue notes pursuant to this~~  
33 ~~section.~~

34 ~~(b) Any revenues, moneys, accounts, accounts receivable, or~~  
35 ~~statutory, contractual or other rights to receive payment, received~~  
36 ~~or accrued during the fiscal year in which the notes are issued,~~  
37 ~~including all taxes, local funding in lieu of property taxes, the~~  
38 ~~state aid portion of the general-purpose entitlement, the~~  
39 ~~categorical block grant, other state and federal categorical aid,~~  
40 ~~and lottery funds, belonging to the charter school may be pledged~~



1 to the repayment of the notes, if those moneys may be lawfully  
2 used for that purpose, pursuant to the terms of the charter school  
3 resolution, indenture, agreement, or other written instrument that  
4 provides for, or makes such a pledge. The pledge shall be  
5 deemed to create a grant of a lien against, security interest in, and  
6 pledge of, all revenues, moneys, or other rights that may be  
7 lawfully used for that purpose.

8 ~~Nothing in this subdivision prevents a charter school from~~  
9 ~~using moneys, not pledged to the repayment of any note issued,~~  
10 ~~for the repayment of notes, if the pledged moneys are insufficient~~  
11 ~~and if the unpledged moneys may be lawfully used for that~~  
12 ~~purpose.~~

13 ~~SEC. 14.~~

14 *SEC. 13.* Section 17199.4 of the Education Code is amended  
15 to read:

16 17199.4. (a) Notwithstanding any other law, any  
17 participating party, in connection with securing financing or  
18 refinancing of projects, or working capital pursuant to this  
19 chapter, may elect to guarantee or provide for payment of the  
20 bonds in accordance with the following conditions:

21 (1) If a participating party adopts a resolution by a majority  
22 vote of its board to participate under this section, it shall provide  
23 notice to the Controller of that election. The notice shall include  
24 a schedule for the repayment of principal and interest on the  
25 bonds, and any other costs necessary or incidental to financing  
26 pursuant to this chapter, and identify a trustee appointed by the  
27 participating party or the authority for purposes of this section.  
28 The notice shall be provided not later than the date of issuance of  
29 the bonds or 60 days prior to the next payment, whichever date is  
30 later. The participating party shall update the notice at least  
31 annually if there is a change in the required payment for any  
32 reason, including, but not limited to, providing for new or  
33 increased costs necessary or incidental to the financing.

34 (2) If, for any reason, the participating party will not make a  
35 payment at the time the payment is required, the participating  
36 party shall notify the trustee of that fact and of the amount of the  
37 deficiency. If the trustee receives this notice from the  
38 participating party, or does not receive any payment by the date  
39 that payment becomes due, the trustee shall immediately  
40 communicate that information to the Controller.



(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the trustee on the date shown in the schedule in the amount of the deficiency for the purpose of making the required payment. The Controller shall make that apportionment only from moneys in Section A of the State School Fund designated for apportionment to a school district pursuant to Section 42238 or to the county office of education pursuant to Section 2558, or in the case of a charter school, pursuant to Section 47633.

(4) As an alternative to the procedures set forth in paragraphs (2) and (3), the participating party may provide a transfer schedule in its notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee and the date for the transfers. The Controller shall, subject to the limitation in paragraph (3), make apportionments to the trustee of those amounts on the specified date for the purpose of making those transfers. The authority may require a participating party to proceed under this subdivision.

(b) (1) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) For purposes of computing revenue limits pursuant to Section 42238 for any school district or pursuant to Section 2558 for any county office of education, the revenue limit for any fiscal year in which funds are apportioned for the participating party pursuant to this section shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a).

(3) For the purposes of computing the general-purpose entitlement of a charter school pursuant to Section 47633, that entitlement shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a). The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned to the trustee by the Controller pursuant to paragraph (3) and (4) of subdivision (a), or to the funds apportioned to by the Controller to the trustee under any other provision of this section.



1 (c) (1) Participating parties that elect to participate under this  
2 section shall apply to the authority. The authority shall consider  
3 each of the following priorities in making funds available:

4 (A) First priority shall be given to school districts, charter  
5 schools, or county offices of education that apply for funding for  
6 instructional classroom space.

7 (B) Second priority shall be given to school districts, charter  
8 schools, or county offices of education that apply for funding of  
9 modernization of instructional classroom space.

10 (C) Third priority shall be given to all other eligible costs, as  
11 defined in Section 17173.

12 (2) The authority shall prioritize applications at appropriate  
13 intervals.

14 (3) A school district electing to participate under this section  
15 that has applied for revenue bond moneys for the purposes of  
16 joint venture school facilities construction projects, pursuant to  
17 Article 5 (commencing with Section 17060) of Chapter 12, shall  
18 not be subject to the priorities set forth in paragraph (1).

19 (d) This section shall not be construed to make the State of  
20 California liable for any payments within the meaning of Section  
21 1 of Article XVI of the California Constitution or otherwise,  
22 except as expressly provided in this section.

23 (e) A school district that has a qualified or negative  
24 certification pursuant to Section 42131, or a county office of  
25 education that has a qualified or negative certification pursuant to  
26 Section 1240, may not participate under this section.